

13 August 1979

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MEMORANDUM FOR: [REDACTED]
Associate Coordinator for Academic Relations, NFAC

SUBJECT : Suggested Background Statement for Proposed DCI
Discussion/Dinner on Law of the Sea

1. The Third United Nations Conference on Law of the Sea (LOS) is one of the most important negotiations held under the auspices of the U.N. One of its many remarkable characteristics is the scope of its ambition. Simply put, it seeks to establish a system of governance -- political, economic, administrative, environmental, and judicial -- for two-thirds of the earth's surface. Much progress has been made toward a comprehensive oceans treaty since the LOS Conference began in Caracas in 1974, but formidable problems remain. Compromise agreements have been reached to protect the traditional freedoms of navigation and overflight through international straits and on the high seas while simultaneously accommodating the demands of coastal states for broad zones of jurisdiction over fisheries and the oil and gas resources of the continental shelf. The major hurdle facing the negotiators deals with the allocation of the resources, primarily manganese nodules, in the international area of the oceans beyond the coastal states' 200-mile zones. The industrial states and the developing nations clash sharply over the powers and functions to be granted the proposed International Seabed Authority -- the international governmental apparatus that would regulate and control seabed mining. The impasse over the seabeds issue currently threatens the future of the conference.

2. The LOS Conference has probably reached the stage where governments must weigh the benefits and losses of a treaty against a no-treaty situation. For most, positive as well as negative factors are involved. One of the most frequently noted consequences of the no-treaty situation would be the need for nations to rely on customary, rather than codified, international law for maintaining a future ocean regime. Whether or not this would represent a "loss" is open to question. Reliance in coming years on the development of customary international law is a process enthusiastically endorsed by some and equally repugnant to others. Treaties, at least conceptually, are generally better understood than the occasionally murky workings of customary law. For those who demand precision, certainty, and predictability from law, the customary process is fraught with danger. The list of participants for the discussion/dinner includes adherents of both viewpoints.

3. The demand for intelligence information and analysis on LOS was strongest during the initial stages of the conference. The positions of key nations on the major issues facing the meetings were furnished by CIA in a series of 47 country studies. NFAC analysis currently focuses on specific problem subjects and unique geographical and resource situations, e.g. seabed mining, fisheries in Oceania, 3rd World and LOS, etc. It is envisioned that future analysis will be directed at the bi-lateral and regional problems resulting from national efforts to demarcate their 200-mile and continental shelf boundaries in disputed waters and at the inevitable conflicts that will arise between the major maritime states and many coastal nations over the latters' rules and regulations that impact upon international navigation.

4. The following outside guests are proposed for the discussion/dinner:

Professor Bernard H. Oxman, University of Miami, Coral Gables
Professor H. Gary Knight, Louisiana State University
Professor John Norton Moore, University of Virginia
Honorable Dean Rusk, University of Georgia
Mr. Gordon Becker, Counsel, EXXON Corporation
Honorable John Breaux, U.S. House of Representatives
Mr. Marne Dubs, Director, Ocean Resources Dept., Kennecott Copper Corp.
Ambassador Elliot L. Richardson
Ambassador George Aldrich
Dr. Ann Hollick, Department of State
Mr. Arnold Nachmanoff, Deputy Asst. Secretary for Developing Nations, Treasury
Mr. C. William Maynes, Jr., Asst. Secretary for International Organization Affairs, Dept. of State

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Resource Analysis Branch
Environment and Resource
Analysis Center, OGCR

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